

### **REMARKS**

Applicants have carefully reviewed the Application in light of the Office Action dated September 25, 2006. Claims 1-28 are pending and stand rejected. For the reasons provided below, Applicants submit that the pending claims are patentably distinguishable over the cited reference. Therefore, Applicants respectfully request reconsideration and favorable action in this case.

#### **Specification – General Comments**

In regards to the Examiner's comments of claim 9 and 10, Applicants submit that claim 9 recites determining a type of payment used by the customer, not that a payment is necessarily performed in claim 9. Accordingly, Applicants submit that claim 10 is clear in its current form.

#### **Section 102 Rejections**

The Examiner has rejected claims 1-28 under 102(e) as being anticipated by U.S. Patent No. 6,813,609 B2 ("*Wilson*"). In addition, claims 16-28 are rejected under 102(b) as being anticipated by WO 97/24689 ("*Giordano*"). Applicants respectfully traverse these rejections for the following reasons.

For example, independent claim 20 recites, in part, "providing the services to the customer at the modified price regardless of whether the customer purchases any fuel." For the teaching of this limitation, the Examiner recites several passages from *Wilson* and *Giordano* that teach applying loyalty points to a customers purchase in response to a fueling transaction. But Applicants submit that the Office Action fails to consider each and every word of Claim 1. "All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). In judging the patentability of Claim 1, the Office Action fails to consider at least the phrase "regardless of whether the customer purchases any fuel."

The passages cited from *Wilson*, in contrast, merely teach applying loyalty points to a purchase of products or services in response to a fueling transaction. ABSTRACT. During a

fueling transaction, dispenser 18 may present purchasing opportunities through display 100. As a result, "during fueling operation, the customer may decide to order a few items from the QSR menu displayed at the dispenser 18." Col. 11, lines 59-61; Col. 12, lines 59-60; Col. 15, lines 20-21. In determining whether to apply loyalty points to the transaction, dispenser 18 interrogates, using the dispenser interrogator 52, a transponder associated with the customer to determine either stored loyalty points or an identifier that the central control system 50 can use to determine the customer's loyalty points. Col. 12, lines 36-40 and 60-63; Col. 15, lines 21-36. In either case, application of the loyalty points to a purchase of products or services requires a fueling transaction. Similarly, the passages cited by the Examiner from *Giordano* teach presenting rewards to the customer through the dispenser 14 during a fueling transaction. Thus, neither *Wilson* nor *Giordano* expressly disclose determining a modified price for services as a function of the determined identity of the customer, regardless of whether the customer purchases any fuel. Accordingly, Applicants request reconsideration and allowance of claim 20 and its dependents.

Independent Claims 1, 9, and 26 recite limitations that are similar, although not identical, to the limitation of independent claim 20 discussed above. Therefore, these claims as well as their dependents are allowable for reasons analogous to those discussed above in connection with claim 20.

### CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fees are believed to be due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

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